



Jim Doyle
Governor

A Publication of the
DEPARTMENT OF REGULATION AND LICENSING
FOR REAL ESTATE LICENSEES

No. 1

February, 2003

A Message from the Chair

By Richard Kollmansberger

On behalf of the Real Estate Board, I would like to thank Jim Imhoff for his service to the Board. Jim served over 6½ years as Chairman of the Board and we will miss his input and leadership. Good luck Jim!

License Renewal

I hope that by the time you read this article all of you will have completed all of your continuing education courses and sent your license renewal to the Board. Renewal forms were mailed to the last address you provided the Board. If you do not have the form you can call for another or renew on line at www.renewal.wisconsin.gov. You must renew by December 31, 2002. To be timely, you are able to verify your renewal by checking our web site at <http://www.drl.state.wi.us>. Brokers, remember that you have a responsibility to make sure that everyone licensed to your firm has renewed before any transaction involvement in the new biennium. Check our web site, to make sure everyone has renewed. If an agent at your firm chooses not to renew, be sure to send a "Notice of Termination" form to the Department.

THE WISCONSIN REAL ESTATE BOARD

Members of the Board:

Richard A. Kollmansberger, Chair (Oconomowoc)
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Harold (Hal) N. Lee, Secretary (Lake Mills)
Rebecca J. Dysland (Milwaukee)
Nancy Gerrard (La Crosse)
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Department Staff:

Donsia Strong Hill, Secretary
Christopher Klein, Executive Assistant

Dual Agency

There has been some confusion as to what constitutes dual agency. There are two situations in which an agent becomes a dual agent. The first is when an agent has a buyer agency agreement with a client and writes a contract on a property on which the agent had obtained the listing. The second is when an agent with a buyer agency agreement writes an offer on a property listed by another agent in the agent's company. In this case both the listing and seller agent become dual agents. Dual agency requires the written consent of both parties before providing brokerage services.

Telephone Solicitations

Wisconsin's Telephone Solicitation Law is scheduled to go into effect January 1, 2003. The intent of the law is to give the public the opportunity to reduce the number of telephone solicitations by signing on to a "No Call" list. Be sure to read the article on page 3, to get a better understanding of how this new law applies to your telephone communications with customers and clients.

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Commission Splits

The Real Estate Board recently discussed the impact that commission splits have on the sale of a seller's property. The Board acknowledged that if a listing broker offers other brokers who submit offers a very low percentage of the total amount of the commission, other brokers would be discouraged from making the listing broker's listings a high priority for them. Board members noted and requested that licensees take note of the language on lines 28 to 38 of the Residential Listing Contract, relating to cooperation with other brokers.

Buyer Agency Agreement

The Real Estate Board reviewed a copy of provisions that a licensee had written into a Buyer Agency Agreement that the licensee had submitted to a potential client. Generally, the Board expressed concern about the vagueness of some of the provisions. The Board concluded that such vague language could easily result in problems later.

The Board requested that licensees be reminded in this Regulatory Digest that licensees must fill in blanks on forms or use appropriate addenda that clearly state the intent of the parties. Wisconsin courts are inclined to rule against licensees who have prepared vague language in a form which has become the subject of a legal action. Licensees are expected to be competent in these matters.

In Memory of Charles Howden, Prosecutor

The Real Estate Board, staff of the Department and others have grieved the death of Charles Howden, a prosecutor in the Division of Enforcement. No doubt, the Department's prosecutors are more to be feared than admired by licensees who are faced with a prospective disciplinary action; however, we admired Charles. He was an accomplished prosecutor. Charles died of cancer on June 29, 2002. He left behind a wife and three small children.

Revision of Rules Relating to Supervision

In the past we informed you that a Real Estate Law Review Committee was formed to review the current rules, relating to supervision of employees, and to recommend appropriate changes to the rules. The Committee did complete its work, and we are grateful to Board members, Jim Imhoff, Dick Hinsman and Dick Kollmansberger, to Rick Staff, and to members of our staff for wrestling with the issues during several meetings.

A rule revision draft is nearly completed. Hopefully, we will be able to move forward with the revision early in 2003.

Council on Real Estate Curriculum and Examinations

The Council on Real Estate Curriculum and Examinations met on July 25, 2002. It approved changes to the broker's exam. A new task analysis was completed and the exam is now being revised. The salesperson's examination will also be changed. The task analysis for that exam has also been completed. An advisory committee had recommended that the salesperson's exam be changed from a theory-based exam to a transaction-based exam.

Monitoring Continuing Education

Barbara Showers, Director of the Office of Education and Examinations, reported to the Real Estate Board on the monitoring process for the continuing education program. Dr. Showers presented various options being used by other boards in handling their CE programs and monitoring CE compliance and she indicated she is looking for a sense of direction from the Board as to what would be appropriate for the real estate profession.

Dr Showers stated that the challenge before the Department right now is that Boards want continuing education which increases the workload for monitoring CE at a time when additional funds are not available to hire more staff to process a CE program that is too involved. Dr. Showers discussed the monitoring program used by the Office of the Commissioner of Insurance. Such a program would require licensees to pay an additional fee, so a third-party service provider could install and maintain a program for recording continuing education that had been completed by a licensee, and for reporting this information to the Department. The Board informally concluded that such a program would be unnecessarily expensive. The Board would prefer other methods, such as random audits, for monitoring completion of continuing education. Real estate licensees should expect a random audit early next year.

Volunteers to Review Bids of Exam Providers

Every three years the Department is required to request for bids from persons who are interested in preparing questions for the real

estate broker's the real estate salesperson's, and the real estate continuing education test-out exam. The successful bidder will prepare exam questions and administer the exams. The contract would run up to three years.

The bids were due on November 22, 2002. Nine bids were received. The Department is grateful to Nancy Strohbusch (Southwest Wisconsin Technical College), Rita Brock (Blackhawk Technical College) and Hugh Burdick (Racine) for, reviewing the bids and making recommendations for the choice of a successful bidder.

Practicing With Expired License

The Real Estate Board has recently reviewed a number of cases in which licensees had been practicing with an expired license. These kinds of cases show the need for employing brokers to heed the message that has been in past issues of the Regulatory Digests that were published at the end of even-numbered years when licenses were being renewed. Please note Richard Kollmansberger's reminder on Page 1.

New Telemarketing Rules

In 2002 the Wisconsin Legislature passed s. 100.52, Wis. Stats., a new law that pertains

to telephone solicitations. No doubt, real estate licensees, as well as many other Wisconsin citizens have been looking forward to getting their personal name on the "No Call List" which will be maintained by the Wisconsin Department of Trade and Consumer Protection (DATCP). However, real estate licensees should understand that this new law, along with the news rules, will require any telephone solicitor that requires an employee or contractor who makes telephone solicitations to a residential customer to register with DATCP, obtain a registration number and pay a registration fee. There are a number of exemptions from the requirements and licensees should carefully review them in the new rules now found in AG 127, Wis. Admin. Code. Licensees should seek more information at the following DATCP Web site: <http://datcp.state.wi.us/>. The new rules may be accessed by clicking on "REGULATIONS" at the far left side of the Web page. These rules became effective December 1, 2002. Telemarketers were required to register then. However, the "No Call List" itself was to be sent to telemarketers and the effective date for them to start using the list was January, 1, 2003.

2003-2004 REAL ESTATE CONTINUING EDUCATION REQUIREMENTS

All licensees, except those who were issued **either a Wisconsin broker's or a salesperson's license after January 1, 2003**, must satisfy the continuing education requirement during 2003-2004 in order to renew their license in a timely manner in the fall of 2004. The license renewal deadline is December 31, 2004. Licensees may complete the 2003-2004 continuing education after that date; however, the Department may not renew their license until such licensees complete the education and pay a late renewal fee.

There are 2 alternatives for completing the continuing education requirement:

Alternative # 1 Continuing Education Courses Approved by the Department

Four courses of at least 3 hours in length at a school approved by the Department. The 4th Course ONLY has options, which relate to specific areas of practice. Note that some schools are now offering these courses by distance learning (videotape, CD-ROM, the Internet, etc.). **The Department must approve a school before it offers courses and grants a certificate of attendance to a licensee.**

- | | |
|-----------|---|
| Course 1 | Contract and Form Issues (Everyone must take.) |
| Course 2 | Environmental and Disclosure Issues. (Everyone must take.) |
| Course 3 | New Developments (Everyone must take.) |
| Course 4A | Formation of Offers of Cooperation and Compensation Elective (Everyone must take this elective OR one of the other 4 electives.) |
| Course 4B | Supervising Broker Elective (Everyone must take this elective OR one of the other 4 electives.) |
| Course 4C | Commercial Elective (Everyone must take this elective OR any of the other 4 electives.) |
| Course 4D | Property Management Elective (Everyone must take this elective OR one of the other 4 electives.) |
| Course 4E | Rural/Farm/Vacant Land Elective (Everyone must take this elective OR one of the other 4 electives.) |

Alternative # 2: Continuing Education Test-Out Exam

This alternative will be available from July 1, 2003, until June 30, 2004. An exam brochure and an exam application form are available from the Department. Study materials may be purchased from the Department for \$6.00 (including tax, handling and postage). To register for the exam, please contact PSI Examination Services at 1-800-733-9267.

DISCIPLINARY ACTIONS

The disciplinary summaries are taken from orders that can be reviewed on the Department of Regulation and Licensing Web site: www.drl.state.wi.us. Click on "Publications" and then "Reports of Decisions" to view the order. Decisions reported below may have an appeal pending and the discipline may be stayed. The current status of the discipline may be viewed on the Department's Web Site under "License Lookup," by calling (608) 266-2112 or by checking the progress of cases in court at: www.courts.state.wi.us.

**ZOE K VAN OSS, Salesperson
GREEN BAY, WI**

REPRIMAND/COSTS/FORFEITURE

Continued to work after her license had expired. \$200.00 forfeiture \$100.00 costs.. Dated 8-22-2002. Case #LS0208224REB

**MICHAEL T HARRILL, Broker
GREEN BAY, WI**

REPRIMAND/COSTS/FORFEITURE

Failed to determine that an employee's license expired while he was her supervising broker. \$400.00 forfeiture. \$100.00 costs. Dated 10-24-2002. Case #LS0210242REB

**CURT W MAUER, Broker
KOHLER, WI**

REPRIMAND/FORFEITURE

License inadvertently not renewed. Upon receipt of a Notice of Termination of Employment of Broker or Salesperson he was notified that his license had expired. Worked as a broker from 1/1/1997 through 11/25/1998. \$150.00 forfeiture. Dated 6-27-2002. Sec. 452.03, Wis. Stats. Sec. RL 24.17(3), Wis. Admin. Code. Case #LS0206271REB

**RICHARD J FREUND, Broker
FREUND & ASSOC LLC**

FOND DU LAC, WI **REPRIMAND/FORFEITURE**
Failed to determine that an employee was properly licensed and for not renewing the license of a real estate broker working for the company. \$300.00 forfeiture. Dated 8-22-2002. Wis. Stat. 452.03; Wis. Admin. Code RL 17.07. Case #LS0208222REB

**BARBARA A NYSTROM, Broker
NYSTROM ENTERPRISES INC**

ELK RIVER, MN **VOLUNTARY SURRENDER**
Paid referral fees to a person who was not licensed; failed to disclose all material adverse facts to the parties; misrepresented facts; employed an unlicensed person to engage in real estate practices. Dated 8-22-2002. Wis. Stat. 452.19, 452.133(1)(c), 452.14(3)(b), 452.14(3)(i); Wis. Admin. Code RL 24.07(2), 24.03(2)(c), 17.03(2), 24.13(3)(b), 24.025(2), 24.03(2)(b). Case #LS0208225REB

**SUSAN M SCHRAMM, Broker
WATERTOWN, WI**

SUSPENDED/EDUCATION/COSTS

Represented a broker without consent from the broker who was her employer. \$1,000.00 costs. Dated 8-22-2002. Wis. Stat. 452.14(3)(g), 452.14(3)(i), 452.14(3)(k); Wis. Admin. Code RL 24.03(2)(b). Case #LS0208223REB

**ANDREW A REID, Salesperson
MILWAUKEE, WI**

REPRIMAND/COSTS

Continued to practice real estate after license expired. \$300.00 costs. Dated 10-24-2002. Wis. Stat. 452.03, 452.14(3)(L), 452.14(3)(i); Wis. Admin. Code RL 24.17(3). Case #LS0210244REB

**HARVEY R HUBER, Salesperson
WAUKESHA, WI**

REPRIMAND/FORFEITURE

License expired 12/31/1996 and not renewed until November 2000. Received sales commissions from his employer for closed real estate transactions. \$150.00 forfeiture. Dated 4-25-2002. Sec. 452.03, Wis. Stats. RL24.17(3), Wis. Admin. Code. Case #LS0204251REB

**HOMESTEAD REALTY INC
MILWAUKEE, WI**

REPRIMAND/FORFEITURE/COSTS

Failed to check the status of an employee's license and allowed the employee to work after the license expired. \$500.00 forfeiture. \$1200.00 costs. Dated 9-26-2002. Case #LS0206281REB

**WILLIAM BERLAND, Broker
MILWAUKEE, WI**

REPRIMAND/FORFEITURE/COSTS

Failed to check the status of an employee's license and allowed the employee to work after the license expired. \$300.00 forfeiture. Dated 9-26-2002. Case #LS0206281REB

**HOMESTEAD LAKES REALTY LTD
MILWAUKEE, WI**

REPRIMAND/FORFEITURE/COSTS

Failed to check the status of an employee's license and allowed the employee to work after the license expired. \$500.00 forfeiture. Dated 9-26-2002. Case #LS0206281REB

**ROBERT C HEFFERNAN, Broker
SHOREWOOD, WI**

REPRIMAND/FORFEITURE/COSTS

Failed to check the status of an employee's license and allowed the employee to work after the license expired. \$300.00 forfeiture. Dated 9-26-2002. Case #LS0206281REB

**MELVYN F MUELLER, Broker
NEILLSVILLE, WI**

LIMITED/CONDITIONAL SURRENDER

Failed to comply with an order issued by the board in October 2000. \$1000.00 costs. Dated 9-26-2002. Wis. Stat. 452.14(3)(i); Wis. Admin. Code RL 24.03(2)(b). Case #LS0209262REB

MUELLER REALTY & AUCTION SRVC
NEILLSVILLE, WI **SURRENDER**
Failed to comply with an order issued by the board in October 2000. Dated 9-26-2002. Wis. Stat. 452.14(3)(i); Wis. Admin. Code RL 24.03(2)(b). Case #LS0209262REB

JOSEPH P MC FADDEN
Timeshare Salesperson
WISCONSIN DELLS, WI

REPRIMAND/FORFEITURE
In May, 1993, convicted of felony issuance of worthless checks in Sauk County Circuit Court. Failed to timely report the conviction to the department and did not provide a copy of the judgment of conviction. \$150.00 forfeiture. RL 24.17(1)(2) Wis. Admin. Code. Dated 6-27-2002. Sec. 452.14(3)(k), Wis. Stats. Case #LS0206272REB

DUSAN MATIC, Broker
KENOSHA, WI **REPRIMAND/EDUCATION/COSTS**
Failed to have a written listing agreement with the seller and failed to provide a copy of a written agency disclosure form to the buyers. \$300.00 costs. Dated 3-28-2002. Secs. 452.135(2), 452.14(3)(i),(L), Wis. Stats. RL16.04(1), 24.07(8)(a)1, 24.08, Wis. Admin. Code Case #LS0203282REB

COLDWELL BANKER RESIDENTIAL RE
MEQUON, WI **REPRIMAND/COSTS**
Failed to check the status of an employee's real estate license and allowed the employee to work after his license expired. \$300.00 costs. Dated 9-26-2002. Wis. Stats. 452.12(3)(a), 452.14(3)(i), 452.14(3)(L); Wis. Admin. Code RL 17.07, 24.17(3). Case #LS0209261REB

DAVID F SHANER, Broker
OAK CREEK, WI **VOLUNTARY SURRENDER**
Criminally convicted in Illinois. Dated-9-26-2002. Wis. Stat. 452.14(3)(i); Wis. Admin. Code RL 24.17(2). Case #LS0209263REB

BARBARA L MASCHKE, Salesperson
NEKOOSA, WI
REPRIMAND/EDUCATION/FORFEITURE/COSTS
Participated in the misrepresentation of agency. Failed to provide brokerage services to all parties in a transaction honestly, fairly and in good faith. Failed to diligently exercise reasonable skill and care in providing brokerage services to the parties in a transaction. Failed to disclose to the listing broker her buyer agency relationship prior to the showing of the property. \$4000.00 forfeiture. \$500.00 costs. Dated 4-25-2002. Secs. 452.14(3)(i),(k),(L), 452.133(1)(a),(b), Wis. Stats. RL 24.03(2)(d), 27.07(8)(a)2., Wis. Admin. Code Case #LS0204253REB

WILLARD C PARR, Broker
BELVA M PARR REALTY INC
ADAMS, WI
REPRIMAND/EDUCATION/FORFEITURE/COSTS
Participated in the misrepresentation of agency which conduct constitutes improper, fraudulent or dishonest dealing. Failed to provide brokerage services to all parties in the transaction honestly, fairly and in good faith. Failed to diligently exercise reasonable skill and care in providing brokerage services to the parties in the transaction. Failed to appropriately supervise the real estate activities of a salesperson under his supervision. \$4000.00 forfeiture. \$600.00 costs (Belva M. Parr Realty, Inc. - reprimand only. Secs. 452.12(3), 452.14(4) Wis. Stats.) Dated 4-25-2002. Secs. 452.14(3)(i),(k),(L), 452.133(1)(a),(b), Wis. Stats. RL24.03(2)(d), 17.08(1),(2), Wis. Admin. Code. Case #LS0204252REB

JOHN M LAW, Broker
RE MAX GENEVA REALTY
LAKE GENEVA, WI **REPRIMAND/COSTS**
Failed to check the licensing status of an employee and allowed her to practice while she was unlicensed. \$250.00 costs. Dated 10-24-2002. Wis. Stat. 452.12(3)(a); Wis. Admin. Code RL 17.07, 24.17(3). (Re Max - reprimand only) Case #LS0210243REB

GARY H BAILLARGEON, Broker
BHW INC
NEW RICHMOND, WI
REPRIMAND/EDUCATION/FORFEITURE/COSTS
Failed to have performed required monthly account reconciliation of the real estate trust account and failed to disburse trust funds in a timely and appropriate manner. \$400.00 costs. \$1000.00 forfeiture (BHW INC only). Dated 3-28-2002. Sec. 452.14(3)(i),(4), Wis. Stats. RL 18.13(5), 18.09 Case #LS0203281REB

CHRISTINA M WIDIKER, Salesperson
DANBURY, WI **REPRIMAND**
Continued to practice after her license expired. \$250.00 costs. Dated 10-24-2002. Wis. Stat. 452.03, 452.12(5)(b); Wis. Admin. Code RL 24.17(3). Case #LS0210245REB

WANDA M. BOLDON, Broker
DANBURY WI **REPRIMAND/COSTS**
SAND COUNTY SERVICES INC
SIREN, WI **REPRIMAND**
Failed to check the licensed status of an employee and allowed her to continue to work as a real estate agent while unlicensed. \$250.00 costs (Baldon only). Dated 10-24-2002. Wis. Stat. 452.12(3)(a); Wis. Admin. Code RL 17.07, 24.17(3). Case #LS0210241REB

DONALD H SUKOWATEY, Broker
HUDSON, WI **REPRIMAND/COSTS**
Failed to disburse trust funds within a reasonable time. Failed to prepare monthly trial balances and perform validations from January 1, 1999 through February 7, 2002. \$750.00 costs. Dated 5-23-2002. Sec. 452.14(3)(i), Wis. Stats. Sec. RL 18.13(4),(5), Wis. Admin. Code. Case #LS0205233REB

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To request an application packet:	press 1-1-3
To check the status of a pending application:	press 1 - 2
To discuss application questions:	press 1 - 3
To discuss temporary license questions:	press 1 - 3
To renew or reinstate a permanent license:	press 1 - 4
To renew or reinstate a permanent license:	press 2 - 1
To renew a temporary license:	press 2 - 2
To obtain proof of licensure to another state:	press 3 - 1
To find out if a person is licensed:	press 3 - 2
To file a complaint on a license holder:	press 8
To check the status of complaints:	press 8
For all other licensing questions:	press 1 - 3

VERIFICATIONS

Verifications are now available online at www.drl.state.wi.us. On the Department Web site, please click on "License Lookup". If you do not use the online system, all requests for verification of licenses/credentials must be submitted in writing. There is no charge for this service. Requests should be sent to the Department address or may be faxed to (608) 261-7083 - ATTENTION: VERIFICATIONS. Requests for endorsements to other states must be made in writing – please include \$10 payable to the Department.

DID YOU KNOW THAT YOU CAN ACCESS MOST INFORMATION ON THE DEPARTMENT OF REGULATION & LICENSING WEB SITE?

Visit the Department's Web site at:

www.drl.state.wi.us

Send comments to: web@drl.state.wi.us

CHANGE OF NAME OR ADDRESS?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes is not automatically provided. **WIS. STATS. S. 440.11** **ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.**

WISCONSIN STATUTES AND CODE

Copies of the Wisconsin Statutes and Administrative Code relating to Real Estate can be ordered through the Department. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28.